

- Specie B: A variant of SEQ ID No: 1 wherein position 104 has been altered or a polynucleotide sequence encoding said variant;
- Specie C: A variant of SEQ ID No: 1 wherein position 256 has been altered or a polynucleotide sequence encoding said variant;
- Specie D: A variant of SEQ ID No: 1 wherein position 369 has been altered or a polynucleotide sequence encoding said variant;
- Specie E: A variant of SEQ ID No: 1 wherein position 66 has been altered or a polynucleotide sequence encoding said variant;
- Specie F: A variant of SEQ ID No: 1 wherein position 264 has been altered or a polynucleotide sequence encoding said variant;
- Specie G: A variant of SEQ ID No: 1 wherein position 57 has been altered or a polynucleotide sequence encoding said variant;
- Specie H: A variant of SEQ ID No: 1 wherein position 101 has been altered or a polynucleotide sequence encoding said variant;
- Specie I: A variant of SEQ ID No: 1 wherein position 102 has been altered or a polynucleotide sequence encoding said variant;
- Specie J: A variant of SEQ ID No: 1 wherein position 103 has been altered or a polynucleotide sequence encoding said variant;
- Specie K: A variant of SEQ ID No: 1 wherein position 104 has been altered or a polynucleotide sequence encoding said variant;
- Specie L: A variant of SEQ ID No: 1 wherein position 105 has been altered or a polynucleotide sequence encoding said variant;
- Specie M: A variant of SEQ ID No: 1 wherein position 106 has been altered or a polynucleotide sequence encoding said variant;
- Specie N: A variant of SEQ ID No: 1 wherein position 136 has been altered or a polynucleotide sequence encoding said variant;
- Specie O: A variant of SEQ ID No: 1 wherein position 193 has been altered or a polynucleotide sequence encoding said variant;
- Specie P: A variant of SEQ ID No: 1 wherein position 342 has been altered or a polynucleotide sequence encoding said variant;
- Specie Q: A variant of SEQ ID No: 1 wherein position 46 has been altered or a polynucleotide sequence encoding said variant;

- Specie R: A variant of SEQ ID No: 1 wherein position 205 has been altered or a polynucleotide sequence encoding said variant;
- Specie S: A variant of SEQ ID No: 1 wherein position 54 has been altered or a polynucleotide sequence encoding said variant;
- Specie T: A variant of SEQ ID No: 1 wherein position 119 has been altered or a polynucleotide sequence encoding said variant;
- Specie U: A variant of SEQ ID No: 1 wherein position 138 has been altered or a polynucleotide sequence encoding said variant;
- Specie V: A variant of SEQ ID No: 1 wherein position 148 has been altered or a polynucleotide sequence encoding said variant;
- Specie X: A variant of SEQ ID No: 1 wherein position 195 has been altered or a polynucleotide sequence encoding said variant;
- Specie Y: A variant of SEQ ID No: 1 wherein position 247 has been altered or a polynucleotide sequence encoding said variant;
- Specie Z: A variant of SEQ ID No: 1 wherein position 124 has been altered or a polynucleotide sequence encoding said variant;
- Specie AA: A variant of SEQ ID No: 1 wherein position 107 has been altered or a polynucleotide sequence encoding said variant;
- Specie BB: A variant of SEQ ID No: 1 wherein position 257 has been altered or a polynucleotide sequence encoding said variant;

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has not provided adequate reasons and/or examples to support a conclusion of patentable distinctness between the identified groups.

In regard to Groups I and II, the Office has characterized the relationship between these groups as product and process of making and product and process of use. Citing MPEP §806.05(h), the Office states that the product as claimed "can be made by another and materially different process, such as by synthetic peptide synthesis or purification from the

natural source.” Applicants note that the Office has merely stated an unsupported conclusion. The Office has failed to show that the alleged processes “synthetic peptide synthesis or purification from the natural source” is materially different from the claimed process. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Restriction..

The Office further states that “the DNA may be used for processes other than the production of the protein, such as nucleic acid hybridization assay.” Applicants note that the Office has merely stated an unsupported conclusion and has failed to show that the alleged process “nucleic acid hybridization assay” is materially different from the claimed process. Applicants respectfully submit that the Office has failed to sustain the Requirement for Restriction. Accordingly, withdrawal of the Requirement for Restriction is requested.

Moreover, Applicants respectfully traverse on the grounds that the Office has not shown that a burden exists in searching the entire application. Applicants note that Groups I-II are classified in the same class, 435, and respectfully submit that a search of all the claims would not impose a serious burden on the Office.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP §808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants’ election of species is for examination purposes only.

With respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

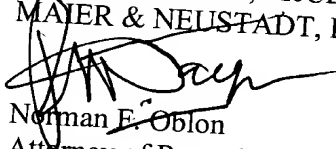
Application No. 29/150  
Reply to Office Action of June 26, 2003.

Therefore, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Restriction and Election of Species. Withdrawal of the Requirement for Restriction and Election of Species is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited

Respectfully submitted,

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